

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) Criminal Action No.
) 04-00310-01-CR-W-ODS
ANTONIO MCGEE,)
)
)
Defendant.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on June 17, 2005. Defendant Antonio McGee appeared in person and with Assistant Federal Public Defender Travis Poindexter. The United States of America appeared by Assistant United States Attorney David DeTar Newbert.

I. BACKGROUND

On September 15, 2004, an indictment was returned charging defendant with one count of conspiracy to possess with intent to distribute crack cocaine, in violation of 21 U.S.C. § 846; two counts of distribution of crack cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(B); and one count of distribution of crack cocaine, in violation of 21 U.S.C. §§ 841(a)(1) and (b)(1)(C). Co-defendant Randolph Douglas entered a guilty plea on December 22, 2004. Co-defendant Myecia Lucas has a change-of-plea hearing set for June 20, 2005.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. DeTar Newbert announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Detective Gary Gibson, Kansas City, Missouri, Police Department.

Mr. Poindexter announced that he will be the trial counsel for defendant Antonio McGee.

III. OUTSTANDING MOTIONS

There is currently pending for ruling by the district judge a motion in limine, filed by defendant McGee on June 10, 2005 (document number 59). The issue should be moot since the government announced it did not intend to offer the subject evidence (i.e., robbery conviction).

IV. TRIAL WITNESSES

Mr. DeTar Newbert announced that the government intends to call 8 witnesses without stipulations or 7 witnesses with stipulations during the trial.

Mr. Poindexter announced that defendant Antonio McGee intends to call 5 witnesses, most of whom will be called by the government (i.d., police officers) during the trial. The defendant may testify.

V. TRIAL EXHIBITS

Mr. DeTar Newbert announced that the government will offer approximately 15 to 16 exhibits in evidence during the trial.

Mr. Poindexter announced that defendant Antonio McGee will offer approximately 9 exhibits in evidence during the trial.

VI. DEFENSES

Mr. Poindexter announced that defendant Antonio McGee will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Mr. Poindexter stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are likely as to chain of custody, chemist's reports, and prior convictions.

IX. TRIAL TIME

Counsel were in agreement that this case will take 1 1/2 to 2 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed on October 19, 2004, and on March 31, 2005, counsel for each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by or before June 17, 2005;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, June 22, 2005;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, Wednesday, June 22, 2005. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local

Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

XI. UNUSUAL QUESTIONS OF LAW

Motions in limine on the following issues will probably be filed:

Defendant McGee has filed a motion in limine to prevent any testimony or evidence regarding his prior felony robbery conviction, which is now moot. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendants were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on June 27, 2005. Counsel request the first week of the trial docket.

/s/ Robert E. Larsen
ROBERT E. LARSEN
U. S. Magistrate Judge

Kansas City, Missouri
June 17, 2005

cc: The Honorable Ortrie Smith
Mr. David DeTar Newbert
Mr. Travis Poindexter
Mr. Jeff Burkholder